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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/846,568
Filing Date: May 01, 2001
Appellant(s): MARTIN ET AL.

MAILED

FEB 2 0 2008

Technology Center 2100

Andrew M. Calderon
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/5/07 appealing from the Office action

mailed 10/11/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6,775,695	SARUKKAI	8-2004
US 6,415,368	GLANCE et al.	7-2002
US 2003/0041143	RONALD et al.	2-2003
US 2002/0156881	Klopp Lemon et al.	10-2002
US 6,760,765	ASAI et al.	7-2004
US 2003/0074580	KNOUSE et al.	4-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1.   Claim 12 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Claim 12 is written in very nearly the same language as the preamble of claim 1.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1 and 4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sarukkai (US 6,775,695), in view of Glance et al. (US 6,415,368), hereinafter

Glance.

4.   As to claim 1, Sarukkai discloses the invention substantially as claimed, including

a method for adapting to change in a demand on a web server (col. 1, lines 22-30),

comprising:

        associating session tracking objects with browsers that access a web server

(figs. 2-4; col. 2, lines 43-47; col. 4, lines 1-38, "traces are logs of client sessions on the

Internet"), wherein the session tracking objects include web pages requested by the

browsers (figs. 2-4; col. 2, lines 43-47; col. 4, lines 1-38); and

        analyzing the web pages requested by the browsers to determine caching

priorities for the web server (col. 5, lines 27-33).

5.   Although each web page is associated identification (URL) that is known to one

of ordinary skill in the art, Sarukkai does not specifically disclose identifications of web

pages. Glance discloses identifications of web pages (col. 1, lines 14-16; col. 2, lines

43-45; col. 3, lines 10-58). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Sarukkai and Glance because Glance's identifications of web pages would be easily accessed by the server to assign a caching priority to each URL periodically (Glance, col. 6, lines 44-66).

6.   As to claim 4, Sarukkai discloses wherein the session tracking objects are HTTP session objects (figs. 2-4; col. 2, lines 43-47; col. 4, lines 1-38).

7.   As to claim 5, Sarukkai discloses wherein the caching priorities are proportional to relative frequencies of browser requests for web pages (col. 4, lines 39-61).

8.   As to claim 6, Sarukkai discloses wherein the caching priorities are proportional to recency of browser requests for web pages (col. 1, line 66 – col. 2, line 2; col. 2, lines 38-42; col. 6, lines 21-30).

9.   As to claim 7, Sarukkai discloses wherein the act of analyzing is performed periodically (col. 11, lines 8-13).

10.   As to claim 8, Sarukkai discloses wherein the act of analyzing is performed in response to a triggering event (col. 8, lines 28-53, "requesting a document").

11.   As to claims 9-11, they are rejected for the same reasons set forth in claim 1

above. In addition, Sarukkai discloses caching replacement algorithm (col. 5, line 48 –

col. 6, lines 37). Using the caching replacement algorithm, the web pages stored in the

cache are updated. Furthermore, Glance discloses altering a server cache responsive

to the caching priorities (i.e., caching replacement algorithm; col. 1, lines 31-45;

calculate priority weight of URL, update cache index, 68, fig. 2; update cache index with

URL, weight, timestamp, 86, fig. 3; col. 8, lines 21-23). It would have been obvious to

one of ordinary skill in the art at the time the invention was made to combine the

teachings of Sarukkai and Glance because Glance's altering the server cache would

improve quality of service by periodically updating the server cache with newly

calculated priority of web pages (col. 1, lines 31-45; calculate priority weight of URL,

update cache index, 68, fig. 2; update cache index with URL, weight, timestamp, 86, fig.

3; col. 8, lines 21-23).

12.   As to claim 12, Sarukkai discloses wherein the method ensures that a web site

adapts to changes in demand (col. 1, lines 22-30).

13.   As to claims 15 and 18, Sarukkai discloses further comprising determining

whether an HTTP session object exists for one of the browsers (figs. 2-4, 6; col. 2, lines

43-47; col. 4, lines 1-38, "traces are logs of client sessions on the Internet").

14.   As to claims 16 and 19, they are rejected for the same reasons set forth in claim

1 above.

15.   Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Sarukkai, Glance, further in view of Ronald et al. (US 2003/0041143), hereinafter

referred to as Ronald.

16.   As to claims 2 and 3, Sarukkai and Glance do not specifically disclose the

identifications of the last N pages requested by each of the browsers and N is five.

Ronald discloses the identifications of the last N pages requested by each of the

browsers (fig. 5; page 5, [0069], [0070]) and N is five (i.e., if user starting from page E –

D – G – M – N, then N is five; or if user starting from page F – D – G – M – N, then N is

five; fig. 5). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the teachings of Sarukkai, Glance and Ronald because

Ronald's identification of the requested last pages would allow the web server to

determine the popularity of each web page by analyzing the number of times users

have visited the web pages.

17.   Claims 13, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sarukkai, Glance, further in view of Klopp Lemon et al. (US 2002/0156881),

hereinafter Klopp.

18.   As to claims 13, 14 and 17, Sarukkai discloses associate each user with a

session tracking object of the session tracking objects and to maintain information about

requests of the browser, and web server inherently includes servlets. However,

Sarukkai does not specifically disclose servlets. Klopp discloses servlets (23, fig. 1;

page 2, 0030, 0037, 0045; page 4, 0066, page 5, 0072). It would have been obvious to

one of ordinary skill in the art at the time the invention was made to combine the

teachings of Sarukkai, Glance and Klopp because Klopp's servlet would handle HTTP

requests and generate dynamic content, and keep tracking of user session (Klopp, page

2, 0045; page 4, 0060).

19.   Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asai et

al. (US 6,760,765), hereinafter Asai, in view of Knouse et al. (US 2003/0074580),

hereinafter Knouse, Glance et al. (US 6,415,368), hereinafter Glance.

20.   As to claim 20, Asai discloses a method for adapting to change in demand on a

web server (col. 2, lines 19-25), comprising:

        determining whether HTTP session objects exist for browser, wherein the HTTP

session objects enable session tracking (11, fig. 1, "session management unit"; fig. 5;

fig. 10);

        associating session tracking objects with the browsers that access a web server

which includes a plurality of servlets, a caching algorithm, and a fast memory cache (10,

33, fig. 1), wherein the session tracking objects include identifications of web pages

requested by the browsers (fig. 5, "distributed data no"; fig. 10; col. 19, lines 36-42; col.

19, line 51 – col. 20, line 40),

        analyzing the identifications of the web pages (distribution streams 1 or

distribution streams 2, fig. 6) requested by the browsers to determine caching priorities

for the web server (cache server 2 has a highest priority, fig. 6; col. 16, lines 25-32); and

wherein the method ensures that a web site adapts to changes in demand (col. 2,

lines 19-25).

21.   Asai does not specifically disclose if an HTTP session object does not exist for

one of browsers which requested one of the web pages, creating with the web server an

HTTP session object for the browser. Knouse discloses if an HTTP session object

does not exist for one of browsers which requested one of the web pages, creating with

the web server an HTTP session object for the browser (3112, fig. 59, "create user

session object"; page 32, 0332, "a user session object is created"; page 33, 0335, "a

user session object is created, if it has not already been created"). It would have been

obvious to one of ordinary skill in the art at the time of the invention was made to

combine the teachings of Asai and Knouse because Knouse's creating session object

would allow the server to track the user's start time and last use time (Knouse, page 32,

0332).

22.   Asai discloses altering a server cache (col. 21, line 64 – col. 22, line 13).

However, Asai does not specifically disclose altering a server cache responsive to the

caching priorities. Glance discloses altering a server cache responsive to the caching

priorities (i.e., caching replacement algorithm; col. 1, lines 31-45; calculate priority

weight of URL, update cache index, 68, fig. 2; update cache index with URL, weight,

timestamp, 86, fig. 3; col. 8, lines 21-23). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to combine the teachings of Asai and

Glance because Glance's altering the server cache would improve quality of service by

periodically updating the server cache with newly calculated priority of web pages

(Glance, col. 1, lines 31-45; calculate priority weight of URL, update cache index, 68,

fig. 2; update cache index with URL, weight, timestamp, 86, fig. 3; col. 8, lines 21-23).

(10) Response to Argument

1.   Rejection of claims 1 and 4-11 under 35 U.S.C. 103(a) as unpatentable over

Sarukkai in view of Glance.

(A)   Rejection of Independent claim 1 under 35 U.S.C. 103(a).

(1)   Appellant's Argument: Appellant asserts on page 7 of the Brief that SARUKKAI

stores the <u>document</u> itself into the cache based on the probability that it will be

requested (see col. 8, lines 32-43). In contrast, the invention provides for associating

<u>session tracking objects</u> with browsers that access a web server, wherein the <u>session</u>

<u>tracking objects include identifications of web pages requested by the browsers</u>.

The examiner respectfully disagrees. During examination, the claims must be

interpreted as broadly as their terms reasonably allow. *In re American Academy of*

Science Tech Center, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004).

The examiner interprets that "tracing logs of client sessions" of Sarukkai has the

same function as the claimed "session tracking objects". Sarukkai discloses the tracking

logs of client sessions that are correlated with browsers (web browser is a software

which allows the client computer to surf the Internet and it lets client computer to move

easily from one website to another) to monitor and trace browsing activities (number of

requested documents; web surfing activity; popularity of documents) of the client users

that access a web server (figs. 1-4, col. 2, lines 9-21, "monitoring the number of

documents requested by a client in a current session"; col. 2, lines 43-47, "monitoring

the number of documents requested may be performed across two or more web

servers"; col. 3, lines 27-33, "users at workstations request documents from one or

more web servers"; col. 3, line 59 – col. 4, line 5, "the popularity of documents, as

measured by the number of requests"; col. 4, lines 6-17, "client surfing activity"; col. 4,

lines 18-22, "analyzing traces to determine the number of links followed in a client

session").

The summary of the claimed subject matter of the appeal brief states that the

claim limitation of "associating session tracking objects with browsers that access a web

server" is described in page 5, lines 8-9 of the present specification: Session objects are

associated with the browsers by cookies. Sarukkai further discloses a cookie that can

inherently be used to associate with browsers to monitor the browsing activities while

visiting a website, and this can be done in part by using the IP address of the client

computer requesting the page or the referrer field of the HTTP header (col. 8, lines 20-

28). Thus, the examiner can interpret that "cookie" of Sarukkai also has the same

function as the claimed "session tracking objects".

Furthermore, it is noted that a module of Glance has the same function as claimed session tracking objects. Glance discloses a module (14, fig. 1) that associates with the browser (client computer comprises a client browser; col. 2, lines 4-5) to analyze the log of client access to Internet web sites (col. 5, lines 43-55, "module 14 analyzes the log of client accesses to Internet 30 web sites...the module 14 as a measure of the value of a site and/or *any URL associated with the site*"; col. 4, lines 64-67, "value module 14 may provide statistical information such as the number of unique user visits to a particular web site or web page").

With regard to appellant's argument, Sarukkai does not disclose session tracking objects include identifications of web pages requested by the browsers.

The examiner respectfully disagrees. In response to Appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The examiner rejected the claimed limitation under 35 U.S.C. 103(a).

The examiner notes that the definition of web page is that each page contains special codes that provide the web browser with sufficient information to allow it to detect the beginning and end of a page (unit of information), from "Prentice Hall's Illustrated Dictionary of Computing", third edition, 1998, and also from Computer Networks, Andrew S. Tanenbaum, third edition, pp. 692-693, 1996, the definition of web

page is that each page is assigned a URL that effectively serves as the page's

worldwide name. The examiner provides the references as evidence to prove that is

well known in the art.

Sarukkai discloses tracing logs of client sessions includes each unique document

referenced requested by the browsers (fig. 2; col. 3, line 59 – col. 4, line 5), and without

aware of the identification of each web page, it is unable to know where to go to find

that page. Although each web page inherently has its own address, known as a URL,

which tells where to go to find that page, Sarukkai does not disclose identifications of

web pages requested by the browsers. The examiner relies upon Glance to teach

session tracking objects include identifications of web pages requested by the browsers

(col. 5, lines 43-55, "module 14 analyzes the log of client accesses to Internet 30 web

sites...the module 14 as a *measure of the value* of a site and/or *any URL associated*

with the site"; col. 3, lines 10-29, "web site may also be a repository or information

source containing collections of documents may be accessed via the web...have a high

level URL, whereas the pages on the site will have lower level qualifiers"; col. 3, line 59

– col. 4, line 11, "*ratings of the individual web page URLs*; col. 2, lines 36-44,

"determining the value for individual web pages...identify the higher value

documents...measures of quality to more efficiently prioritize which documents such as

URLs"). It would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify Sarukkai by including identification of web page in order

easy to identify and measure which identification (i.e., URL) has a high priority, as

taught by Glance (col. 3, line 59 – col. 4, line 11, "*ratings of the individual web page*

URLs).

(2)   Appellant's Argument: Appellant asserts on page 7 of the Brief that Glance, like

Sarukkai, simply does not disclose or suggest associating <u>session tracking objects</u> with

browsers that access a web server, wherein the <u>session tracking objects include</u>

<u>identifications of web pages requested by the browsers</u>. Glance does not even

determine caching priorities for the server by analyzing the identifications of web pages

requested by the browsers.

In response to Appellant's arguments against the references individually, one

cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

1986). The examiner does not rely upon Glance to teach the limitations, associating

session tracking objects with browsers that access a web server, and determining

caching priorities for the server by analyzing the identifications of web pages requested

by the browsers. The examiner relies upon Glance only to teach session tracking

objects include identifications of web pages requested by the browsers (col. 4, lines 64-

67, "value module 14 may provide statistical information such as the number of unique

user visits to a particular web site or web page"; col. 5, lines 43-55, "module 14

analyzes the log of client accesses to Internet 30 web sites...the module 14 as a

measure of the value of a site and/or *any URL associated with the site*"; col. 3, lines

10-29, "web site may also be a repository or information source containing collections of

documents may be accessed via the web...have a high level URL, whereas the pages

on the site will have lower level qualifiers"; col. 3, line 59 – col. 4, line 11, "*ratings of*

the individual web page URLs; col. 2, lines 36-44, "determining the value for individual

web pages...identify the higher value documents...measures of quality to more

efficiently prioritize which documents such as URLs").

In addition, contrary to Appellant's argument, Glance further explicitly discloses

determining caching priorities for the server by analyzing the identifications of web

pages requested by the browsers (fig. 3, "calculate priority weigh of URL"; col. 4, lines

64-67, "value module 14 may provide statistical information such as the number of

unique user visits to a particular web page"; col. 7, lines 1-3, "caching priorities

calculation will be URL-specific as it also takes into account the recency and frequency

of access for the particular URL"; col. 7, lines 4-67, "the weighing metric for determining

the priority of a document in the cache is the likely frequency of document requests").

(B) Rejection of independent claim 9 under 35 U.S.C. 103(a) as unpatentable over Sarukkai in view of Glance.

(1)   Appellant's Argument: Appellant asserts on page 7 of the Brief that SARUKKAI

stores the <u>document</u> itself into the cache based on the probability that it will be

requested (see col. 8, lines 32-43). In contrast, the invention provides for associating

<u>session tracking objects</u> with browsers that access a web server, wherein the <u>session</u>

<u>tracking objects include identifications of web pages requested by the browsers.</u>

The examiner respectfully disagrees. Again, the examiner interprets that "tracing

logs of client sessions" of Sarukkai has the same function as the claimed "session

tracking objects". Sarukkai discloses the tracking logs of client sessions that are

correlated with browsers (web browser is a software which allows the client computer to

surf the Internet and it lets client computer to move easily from one website to another)

to monitor and trace browsing activities (number of requested documents; web surfing

activity; popularity of documents) of the client users that access a web server (figs. 1-4,

col. 2, lines 9-21, "monitoring the number of documents requested by a client in a

current session"; col. 2, lines 43-47, "monitoring the number of documents requested

may be performed across two or more web servers"; col. 3, lines 27-33, "users at

workstations request documents from one or more web servers"; col. 3, line 59 – col. 4,

line 5, "the popularity of documents, as measured by the number of requests"; col. 4,

lines 6-17, "client surfing activity"; col. 4, lines 18-22, "analyzing traces to determine the

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The summary of the claimed subject matter of the appeal brief states that the

claim limitation of "associating session tracking objects with browsers that access a web

server" is described in page 5, lines 8-9 of the present specification: Session objects are

associated with the browsers by cookies. Sarukkai further discloses a cookie that can

inherently be used to associate with browsers to monitor the browsing activities while

visiting a website, and this can be done in part by using the IP address of the client

computer requesting the page or the referrer field of the HTTP header (col. 8, lines 20-

28). Thus, the examiner can interpret that "cookie" of Sarukkai has the same function as

the claimed "session tracking objects".

Furthermore, it is noted that a module of Glance has the same function as claimed session tracking objects. Glance discloses a module (14, fig. 1) that associates with the browser (client computer comprises a client browser; col. 2, lines 4-5) to analyze the log of client access to Internet web sites (col. 5, lines 43-55, "module 14 analyzes the log of client accesses to Internet 30 web sites...the module 14 as a measure of the value of a site and/or *any URL associated with the site*"; col. 4, lines 64-67, "value module 14 may provide statistical information such as the number of unique user visits to a particular web site or web page").

With regard to appellant's argument, Sarukkai does not disclose session tracking objects include identifications of web pages requested by the browsers.

In response to Appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The examiner rejected the limitation under 35 U.S.C. 103(a).

The examiner notes that the definition of web page is that each page contains special codes that provide the web browser with sufficient information to allow it to detect the beginning and end of a page (unit of information), from "Prentice Hall's Illustrated Dictionary of Computing", third edition, 1998, and also from Computer Networks, Andrew S. Tanenbaum, third edition, pp. 692-693, 1996, the definition of web page is that each page is assigned a URL that effectively serves as the page's

worldwide name. The examiner provides the references as evidence to prove that is

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referenced requested by the browsers (fig. 2; col. 3, line 59 – col. 4, line 5), and without

aware of the identification of each web page, it is unable to know where to go to find

that page. Although each web page inherently has its own address, known as a URL,

which tells where to go to find that page, Sarukkai does not disclose identifications of

web pages requested by the browsers. The examiner relies upon Glance to teach

session tracking objects include identifications of web pages requested by the browsers

(col. 5, lines 43-55, "module 14 analyzes the log of client accesses to Internet 30 web

sites...the module 14 as a *measure of the value* of a site and/or *any URL associated*

with the site"; col. 3, lines 10-29, "web site may also be a repository or information

source containing collections of documents may be accessed via the web...have a high

level URL, whereas the pages on the site will have lower level qualifiers"; col. 3, line 59

– col. 4, line 11, "*ratings of the individual web page URLs*; col. 2, lines 36-44,

"determining the value for individual web pages...identify the higher value

documents...measures of quality to more efficiently prioritize which documents such as

URLs"). It would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify Sarukkai by including identification of web page in order

easy to identify and measure which identification (i.e., URL) has a high priority, as

taught by Glance (col. 3, line 59 – col. 4, line 11, "*ratings of the individual web page*

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(2)   Appellant's Argument: Appellant asserts on page 7 of the Brief that Glance, like

Sarukkai, simply does not disclose or suggest associating <u>session tracking objects</u> with

browsers that access a web server, wherein the <u>session tracking objects include</u>

<u>identifications of web pages requested by the browsers</u>. Glance does not even

determine caching priorities for the server by analyzing the identifications of web pages

requested by the browsers.

The examiner respectfully disagrees. In response to Appellant's arguments

against the references individually, one cannot show nonobviousness by attacking

references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800

F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner does not rely upon Glance to teach the limitations, associating

session tracking objects with browsers that access a web server, and determining

caching priorities for the server by analyzing the identifications of web pages requested

by the browsers. The examiner relies upon Glance only to teach session tracking

objects include identifications of web pages requested by the browsers (col. 4, lines 64-

67, "value module 14 may provide statistical information such as the number of unique

user visits to a particular web site or web page"; col. 5, lines 43-55, "module 14

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In addition, contrary to Appellant's argument, Glance explicitly discloses determining caching priorities for the server by analyzing the identifications of web pages requested by the browsers (fig. 3, "calculate priority weigh of URL"; col. 4, lines 64-67, "value module 14 may provide statistical information such as the number of unique user visits to a particular web page"; col. 7, lines 1-3, "caching priorities calculation will be URL-specific as it also takes into account the recency and frequency of access for the particular URL"; col. 7, lines 4-67, "the weighing metric for determining the priority of a document in the cache is the likely frequency of document requests").

(C) Rejection of dependent claim 4 under 35 U.S.C. 103(a) as unpatentable over Sarukkai in view of Glance.

(1)   Appellant's Argument: Appellant asserts on page 12 of the Brief that "while it is true that above-noted language discusses session, session lengths and session depths, there is no specific language disclosing or suggesting that the session tracking objects are HTTP session objects."

The examiner respectfully disagrees. The examiner notes that Appellant's specification is silent to an exact definition of "***session tracking objects are HTTP session objects***". During examination, the claims must be interpreted as broadly as

their terms reasonably allow. *In re American Academy of Science Tech Center*, 367

F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004).

It is well known in the art that HTTP session ID is a unique number that a Web

site's server assigns a specific user for the duration of that user's visit session and then

the HTTP session ID is stored in a cookie by the user's web browser application. Every

time an Internet user visits a specific Web site, a new session ID is assigned. Closing a

browser and then reopening and visiting the site again generates a new session ID. The

HTTP session ID is used to track user session. The examiner interprets the HTTP

session ID is equivalent to the HTTP session object as claimed.

Sarukkai discloses monitoring browser's activity in a current session (col. 2, lines

9-21, "monitoring the number of documents requested by a client in a current session;

col. 2, lines 43-47, "monitoring the number of documents requested may be performed

across web servers in the current session…one or more timeouts in the current

session"; col. 4, lines 1-5 and 18-38, "traces are logs of client sessions on the Internet),

and determining a new session when the current user session (current session ID) has

expired (col. 8, lines 20-28, "a cookie-based scheme…**cookie to signify that a client**

is in an ongoing session…a request after a long duration of time is considered as a

request of depth one in **a new session**").

(D) Rejection of dependent claim 7 under 35 U.S.C. 103

(1)   Appellant's Argument: Appellant asserts on page 13 of the Brief that while it is

true that the above-noted language discusses a selected time interval, there is no

specific language disclosing or suggesting that the act of analyzing is performed periodically.

Appellant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Sarukkai explicitly discloses analyzing is performed periodically (Figs. 2-5; col. 3, line 59 – col. 4, line 5; col. 4, lines 18-61, "analyzing traces to determine the number of links followed in a client session..."; col. 2, lines 43-47, "monitoring the number of documents"; col. 5, line 20 - col. 6, line 37, "graceful implementation keeps track of the current session depth for each client and is based on the depth of the client").

Furthermore, Glance explicitly discloses analyzing is performed periodically (80, fig. 3, col. 8, lines 10-23, "reevaluation period").

(E) Rejection of dependent claim 12 under 35 U.S.C. 103

(1)   Appellant's Argument: Appellant asserts on page 13 of the Brief that while it is true that the above-noted language discusses retrieving documents that are already stored in a cache, there is no specific language disclosing or suggesting that the method ensures that a web site adapts to changes in demand.

Sarukkai explicitly discloses web site adapts to changes in demand (208-212, fig. 6; col. 1, line 40 – col. 2, line 2, "many cache replacement policies that optimize for document hit rate or byte-hit rate...least frequently used replacement scheme"; col. 2,

lines 9-43, "*document transfer between a web server and a client...monitoring the number of documents requested by a client in a current session, placing a document requested by the client in a file cache <u>according to a caching algorithm that is based on the number of documents requested by the client in the current session</u>*"; col. 5, line 48 - col. 6, line 37, "six different versions of cache replacement algorithms"; col. 8, lines 38-67, "a request is sent to the addressed web server on Internet 40 in step 208...the addressed web server returns the requested document in step 210...in step 212, the document is placed in the file cache in accordance with a selected algorithm which is based on session depth").

Furthermore, Glance explicitly discloses web site adapts to changes in demand (68, fig. 2; 86, fig. 3; col. 6, line 53 – col. 7, line 3; col. 8, lines 10-23).

(F) Rejection of dependent claim 15 under 35 U.S.C. 103

(1)   Appellant's Argument: Appellant asserts on page 15 of the Brief that while it is true that the above-noted language discusses sessions, session lengths and session depths, there is no specific language disclosing or suggesting determining whether an HTTP session object exists for one of the browsers.

The examiner respectfully disagrees. It is well known in the art that HTTP session ID is a unique number that a Web site's server assigns a specific user for the duration of that user's visit session and then the session ID is stored in a cookie by the user's web browser application. Every time an Internet user visits a specific Web site, a new session ID is assigned. Closing a browser and then reopening and visiting the site

again generates a new session ID. The HTTP session ID is used to track user session. The examiner interprets the HTTP session ID is equivalent to the HTTP session object as claimed.

Sarukkai discloses monitoring browser's activity in a current session (col. 2, lines 9-21, "monitoring the number of documents requested by a client in a current session; col. 2, lines 43-47, "monitoring the number of documents requested may be performed across web servers in the current session...*one or more timeouts in the current session*"; col. 4, lines 1-5 and 18-38, "traces are logs of client sessions on the Internet), and determining a new session when the current user session (current session ID) has expired (col. 8, lines 20-28, "a cookie-based scheme...**cookie to signify that a client is in an ongoing session...a request after a long duration of time** is considered as a request of depth one in **a new session**"). Therefore, the timeout of Sarukkai could be provided whereby the expiration of a predetermined period of inactivity is used to determine when the session ID is terminated.

(G) Rejection of dependent claim 16 under 35 U.S.C. 103

(1)   Appellant's Argument: Appellant asserts on page 16 of the Brief that Sarukkai or Glance does not teach writing into an HTTP session object that is associated with one of the browsers an identification of a requested web page.

The examiner respectfully disagrees. It is well known in the art that HTTP session ID is a unique number that a Web site's server assigns a specific user for the duration of that user's visit session and then the session ID is stored in a cookie by the

user's web browser application. Every time an Internet user visits a specific Web site, a new session ID is assigned. Closing a browser and then reopening and visiting the site again generates a new session ID. The HTTP session ID is used to track user session. The examiner interprets the HTTP session ID is equivalent to the HTTP session object as claimed.

The definition of a cookie from "Prentice Hall's Illustrated Dictionary of Computing", third edition, 1998, is a web tool used to measure a user's behavior and workflow habits on an Internet or Intranet...Cookies are stored on the user's hard disk and are used to identify (like a passport) the user. It is **stamped each time a link is established** between the user and the server. This can help to quickly and simply identify the user by offering information that is pertinent to the user according to the habits established during prior sessions.

Sarukkai discloses a cookie that inherently stores the HTTP session ID and requested URL of the web page sent by a browser (col. 8, lines 20-28; col. 2, lines 9-21, "monitoring the number of documents requested by a client in a current session; col. 2, lines 43-47, "monitoring the number of documents requested may be performed across web servers in the current session...one or more timeouts in the current session"; col. 4, lines 1-5 and 18-38, "traces are logs of client sessions on the Internet).

(H) Rejection of dependent claim 18 under 35 U.S.C. 103

(1)   Appellant's Argument: Appellant asserts on page 18 of the Brief that while it is true that the above-noted language discusses sessions, session

lengths and session depths, there is no specific language disclosing or suggesting

determining whether an HTTP session object exists for one of the browsers.

The examiner respectfully disagrees. It is well known in the art that HTTP

session ID is a unique number that a Web site's server assigns a specific user for the

duration of that user's visit session and then the session ID is stored in a cookie by the

user's web browser application. Every time an Internet user visits a specific Web site, a

new session ID is assigned. Closing a browser and then reopening and visiting the site

again generates a new session ID. The HTTP session ID is used to track user session.

The examiner interprets the HTTP session ID is equivalent to the HTTP session object

as claimed.

Sarukkai discloses monitoring browser's activity in a current session (col. 2, lines

9-21, "monitoring the number of documents requested by a client in a current session;

col. 2, lines 43-47, "monitoring the number of documents requested may be performed

across web servers in the current session...*one or more timeouts in the current

session*"; col. 4, lines 1-5 and 18-38, "traces are logs of client sessions on the Internet),

and determining a new session when the current user session (current session ID) has

expired (col. 8, lines 20-28, "a cookie-based scheme...**cookie to signify that a client

is in an ongoing session...a request after a long duration of time** is considered as a

request of depth one in **a new session**"). Therefore, the timeout of Sarukkai could be

provided whereby the expiration of a predetermined period of inactivity is used to

determine when the session ID is terminated.

(I) Rejection of dependent claim 19 under 35 U.S.C. 103

(1)   Appellant's Argument: Appellant asserts on page 16 of the Brief that Sarukkai

or Glance does not teach writing into an HTTP session object that is associated with

one of the browsers an identification of a requested web page.

The examiner respectfully disagrees. It is well known in the art that HTTP

session ID is a unique number that a Web site's server assigns a specific user for the

duration of that user's visit session and then the session ID is stored in a cookie by the

user's web browser application. Every time an Internet user visits a specific Web site, a

new session ID is assigned. Closing a browser and then reopening and visiting the site

again generates a new session ID. The HTTP session ID is used to track user session.

The examiner interprets the HTTP session ID is equivalent to the HTTP session object

as claimed.

The definition of a cookie from "Prentice Hall's Illustrated Dictionary of

Computing", third edition, 1998, is a web tool used to measure a user's behavior and

workflow habits on an Internet or Intranet...Cookies are stored on the user's hard disk

and are used to identify (like a passport) the user. It is **stamped each time a link is**

established between the user and the server. This can help to quickly and simply

identify the user by offering information that is pertinent to the user according to the

habits established during prior sessions.

Sarukkai discloses a cookie that inherently stores the HTTP session ID and

requested URL of the web page sent by a browser (col. 8, lines 20-28; col. 2, lines 9-21,

"monitoring the number of documents requested by a client in a current session; col. 2,

lines 43-47, "monitoring the number of documents requested may be performed across

web servers in the current session...one or more timeouts in the current session"; col. 4,

lines 1-5 and 18-38, "traces are logs of client sessions on the Internet).

2.   The rejection of claims 13, 14 and 17 under 35 U.S.C. §103(a) as

unpatentable over U.S. Patent No. 6,775,695 issued to SARUKKAI in view of U.S.

Patent No. 6,415,368 issued to GLANCE et al., and further in view of U.S. Patent

Application Publication 2002/0156881 to KLOPP LEMON et al.

(A) REJECTION OF DEPENDENT CLAIM 13 UNDER 35 U.S.C. § 103

(1)   Appellant's Argument: Appellant asserts on page 19 of the Brief that while it is

true that KLOPP LEMON teaches servlets, the Examiner has failed to explain why one

having ordinary skill in the art would be motivated to utilize the servlets of KLOPP

LEMON on the arrangement of SARUKKAI and GLANCE.

> The examiner respectfully disagrees. MPEP 2141 [R-6], which states in part:

> An invention that would have been obvious to a person of ordinary skill in the art
> of the invention is not patentable. See 35 U.S.C. 103(a). As reiterated by the
> Supreme Court in *KSR*, the framework for the objective analysis for determining
> obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383
> U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on
> underlying factual inquiries.

> It is well known in the art that Servlets are Java applications that run in a Web

server and provide server-side processing. Servlets are designed to handle each user

HTTP requests (get, post, etc) and are the standard Java replacement for a variety of

other methods, including CGI scripts, Active Server Pages (ASPs) and proprietary ·

C/C++ plug-ins for specific Web servers (ISAPI, NSAPI).

Although Sarukkai explicitly discloses associating each user with a session

tracking object of the session tracking objects (as explained above, a web site's server

assigns a unique session ID to a user to track the session state is well known in the art;

col. 2, lines 43-47, "monitoring the number of documents requested may be performed

across web servers in the current session...one or more timeouts in the current

session"; col. 8, lines 20-28, "a cookie-based scheme...cookie to signify that a client is

in an ongoing session...a request after a long duration of time is considered as a

request of depth one in a new session"), and *every web server inherently includes*

servlets, Sarukkai does not specifically use a term servlets. Klopp discloses utilizing

servlets to associate with each user with a session tracking object of the session

tracking objects (23, 25, fig. 1; page 1, 0025, "**HTTP session – part of the Java**

Servlet™ APIs...allows the HTTP server to maintain state between different HTTP

requests because the browser sends the session ID as part of the request"; page 2,

0037, "servlet"; page 2, 0045, "Java™ Servlet that handles HTTP requests and

generate dynamic content"; page 4, 0065, "HTTP transaction monitor 14"; page 4, 0067;

page 5, 0068, page 5, TABLE; page 5, 0072).

To provide the server of Sarukkai with servlets to associate with each user with a

session tracking object of the session tracking objects would have been obvious to one

of ordinary skill in the art, in view of the teachings of Klopp, since all the claimed

elements were known in the prior art and one skilled in the art could have combined the

elements as claimed by known methods with no change in their respective functions,

and the combination would have yielded nothing more than predictable results to one of

ordinary skill in the art at the time of the invention, i.e., one skilled in the art would have

recognized that the servlets associated with each user's session tracking object used in

Klopp would allow the web server of Sarukkai to know which session to associate with

the request because the browser sends the session ID as part of the request, as taught

by Klopp (page 1, 0025; page 2, 0045, "Java servlets that handle HTTP requests").

(B) REJECTION OF DEPENDENT CLAIM 14 UNDER 35 U.S.C. § 103

(1)   Appellant's Argument: Appellant asserts on page 20 of the Brief that

while it is true that KLOPP LEMON teaches servlets, the Examiner has failed to

explain why one having ordinary skill in the art would be motivated to utilize the servlets

of KLOPP LEMON on the arrangement of SARUKKAI and GLANCE.

The examiner respectfully disagrees. MPEP 2141 [R-6], which states in part:

> An invention that would have been obvious to a person of ordinary skill in the art
> of the invention is not patentable. See 35 U.S.C. 103(a). As reiterated by the
> Supreme Court in *KSR*, the framework for the objective analysis for determining
> obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383
> U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on
> underlying factual inquiries.

It is well known in the art that Servlets are Java applications that run in a Web

server and provide server-side processing. Servlets are designed to handle each user

HTTP requests (get, post, etc) and are the standard Java replacement for a variety of

other methods, including CGI scripts, Active Server Pages (ASPs) and proprietary

C/C++ plug-ins for specific Web servers (ISAPI, NSAPI).

Although Sarukkai explicitly discloses associating each user with a session

tracking object of the session tracking objects (as explained above, a web site's server

assigns a unique session ID to a user to track the session state is well known in the art;

col. 2, lines 43-47, "monitoring the number of documents requested may be performed

across web servers in the current session...one or more timeouts in the current

session"; col. 8, lines 20-28, "a cookie-based scheme...cookie to signify that a client is

in an ongoing session...a request after a long duration of time is considered as a

request of depth one in a new session"), and *every web server inherently includes*

servlets, Sarukkai does not specifically use a term servlets. Klopp discloses utilizing

servlets to associate with each user with a session tracking object of the session

tracking objects (23, 25, fig. 1; page 1, 0025, "**HTTP session – part of the Java**

Servlet™ APIs...allows the HTTP server to maintain state between different HTTP

requests because the browser sends the session ID as part of the request"; page 2,

0037, "servlet"; page 2, 0045, "Java™ Servlet that handles HTTP requests and

generate dynamic content"; page 4, 0065, "HTTP transaction monitor 14"; page 4, 0067;

page 5, 0068, page 5, TABLE; page 5, 0072).

To provide the server of Sarukkai with servlets to associate with each user with a

session tracking object of the session tracking objects would have been obvious to one

of ordinary skill in the art, in view of the teachings of Klopp, since all the claimed

elements were known in the prior art and one skilled in the art could have combined the

elements as claimed by known methods with no change in their respective functions,

and the combination would have yielded nothing more than predictable results to one of

ordinary skill in the art at the time of the invention, i.e., one skilled in the art would have

recognized that the servlets associated with each user's session tracking object used in

Klopp would allow the web server of Sarukkai to know which session to associate with

the request because the browser sends the session ID as part of the request, as taught

by Klopp (page 1, 0025; page 2, 0045, "Java servlets that handle HTTP requests").

(C) REJECTION OF DEPENDENT CLAIM 17 UNDER 35 U.S.C. § 103

(1)   Appellant's Argument: Appellant asserts on page 20 of the Brief that

while it is true that KLOPP LEMON teaches servlets, the Examiner has failed to

explain why one having ordinary skill in the art would be motivated to utilize the servlets

of KLOPP LEMON on the arrangement of SARUKKAI and GLANCE.

The examiner respectfully disagrees. MPEP 2141 [R-6], which states in part:

> An invention that would have been obvious to a person of ordinary skill in the art
> of the invention is not patentable. See 35 U.S.C. 103(a). As reiterated by the
> Supreme Court in *KSR*, the framework for the objective analysis for determining
> obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383
> U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on
> underlying factual inquiries.

It is well known in the art that Servlets are Java applications that run in a Web

server and provide server-side processing. Servlets are designed to handle each user

HTTP requests (get, post, etc) and are the standard Java replacement for a variety of

other methods, including CGI scripts, Active Server Pages (ASPs) and proprietary

C/C++ plug-ins for specific Web servers (ISAPI, NSAPI).

Although Sarukkai explicitly discloses associating each user with a session

tracking object of the session tracking objects (as explained above, a web site's server

assigns a unique session ID to a user to track the session state is well known in the art;

col. 2, lines 43-47, "monitoring the number of documents requested may be performed

across web servers in the current session...one or more timeouts in the current

session"; col. 8, lines 20-28, "a cookie-based scheme...cookie to signify that a client is

in an ongoing session...a request after a long duration of time is considered as a

request of depth one in a new session"), and every web server inherently includes

servlets, Sarukkai does not specifically use a term servlets. Klopp discloses utilizing

servlets to associate with each user with a session tracking object of the session

tracking objects (23, 25, fig. 1; page 1, 0025, "**HTTP session – part of the Java**

Servlet™ APIs...allows the HTTP server to maintain state between different HTTP

requests because the browser sends the session ID as part of the request"; page 2,

0037, "servlet"; page 2, 0045, "Java™ Servlet that handles HTTP requests and

generate dynamic content"; page 4, 0065, "HTTP transaction monitor 14"; page 4, 0067;

page 5, 0068, page 5, TABLE; page 5, 0072).

To provide the server of Sarukkai with servlets to associate with each user with a

session tracking object of the session tracking objects would have been obvious to one

of ordinary skill in the art, in view of the teachings of Klopp, since all the claimed

elements were known in the prior art and one skilled in the art could have combined the

elements as claimed by known methods with no change in their respective functions,

and the combination would have yielded nothing more than predictable results to one of

ordinary skill in the art at the time of the invention, i.e., one skilled in the art would have

recognized that the servlets associated with each user's session tracking object used in Klopp would allow the web server of Sarukkai to know which session to associate with the request because the browser sends the session ID as part of the request, as taught by Klopp (page 1, 0025; page 2, 0045, "Java servlets that handle HTTP requests").

3. **The rejection of claim 20 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,760,765 issued to ASAI et al. in view of U.S. Patent Application Publication 2003/0074580 to KNOUSE et al., and further in view of U.S. Patent No. 6,415,368 issued to GLANCE et al.**

(a) REJECTION OF INDEPENDENT CLAIM 20 UNDER 35 U.S.C. § 103

(1)   Appellant's Argument: Appellant asserts on page 23 of the Brief that

It is clear from a fair reading of this document that ASAI does not disclose or suggest the document relates to a method for adapting to change in demand on a web server.

The examiner respectfully disagrees. In response to Appellant's arguments, the recitation "a method for adapting to change in demand on a web server" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In addition, the claim merely recites "adapting to change in demand on a web server". It is not clearly indicated what is changed in demand on a web server. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). It is well known in the art that the web server can change or update data in its memory or cache values in response to detection of changes in at least a portion of data.

(2)   Appellant's Argument: Appellant asserts on page 25 of the Brief that GLANCE, like ASAI and KNOUSE, does not disclose or suggest, among other things, associating session tracking objects with browsers that access a web server, much less, that the session tracking objects include identifications of web pages requested by the browsers.

The examiner respectfully disagrees. Glance explicitly discloses associating session tracking objects with browsers that access a web server (col. 5, lines 1-13, "user behavior, e.g., time spent reading a document", col. 5, lines 43-55, "module 14 analyzes the log of client accesses to Internet 30 web sites...measure of the value of a site and/or any URL associated with the site").

In addition, Knouse associating session tracking objects with browsers that access a web server (page 2, 0016, "the user session state information is stored in a cookie"; page 18, 0217, "cookie includes the URL of the requested resource"; page 29, 0306-0316, "session token"; page 35, 0352, "servlet fragment that gets a session token from a cookie").
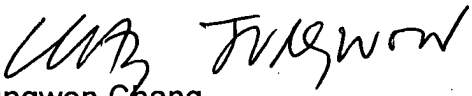
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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